

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA**

Joseph and Nicole Messina,

Plaintiffs,

v.

Navient Solutions, Inc. aka Sallie Mae; and
DOES 1-10, inclusive,

Defendants.

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: Civil Action No.: 3:16-cv-215
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COMPLAINT

For this Complaint, the Plaintiffs, Joseph and Nicole Messina, by undersigned counsel,
state as follows:

JURISDICTION

1. This action arises out of Defendants' repeated violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* (the "TCPA").
2. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that the Defendants transact business in this District and a substantial portion of the acts giving rise to this action occurred in this District.

PARTIES

3. The Plaintiffs, Joseph and Nicole Messina ("Plaintiffs"), are adult individuals residing in Portage, Pennsylvania, and each is a "person" as defined by 47 U.S.C. § 153(39).
4. The Defendant, Navient Solutions, Inc. aka Sallie Mae ("Navient"), is a Delaware business entity with an address of 2001 Edmund Halley Drive, Reston, Virginia 20191, and is a "person" as defined by 47 U.S.C. § 153(39).

5. Does 1-10 (the “Agents”) are individual collectors employed by Navient and whose identities are currently unknown to the Plaintiffs. One or more of the Agents may be joined as parties once their identities are disclosed through discovery.

6. Navient at all times acted by and through one or more of the Agents.

FACTS

7. In June 2016, Navient began calling Plaintiffs’ cellular telephones, numbers 412-xxx-2369 and 814-xxx-9995, in an attempt to collect a consumer debt allegedly owed by Plaintiffs.

8. At all times mentioned herein, Navient called Plaintiffs using an automatic telephone dialing system (“ATDS” or “predictive dialer”) and/or using an artificial or prerecorded voice.

9. On June 18, 2016, Plaintiffs advised Navient that the debt was being discharged through the Department of Education and requested that the calls stop.

10. Navient acknowledged that the calls would cease.

11. Nevertheless, Navient continued to place automated calls to Plaintiffs’ cellular telephone numbers.

COUNT I **VIOLATIONS OF THE TCPA – 47 U.S.C. § 227, ET SEQ.**

12. Plaintiffs incorporate by reference all of the above paragraphs of this Complaint as though fully stated herein.

13. At all times mentioned herein, Defendants called Plaintiffs’ cellular telephone numbers using an ATDS or predictive dialer and/or using a prerecorded or artificial voice.

14. Defendants continued to place automated calls to Plaintiffs’ cellular telephone numbers despite knowing that it lacked consent to do so in light of revocation. As such, each

call placed to Plaintiffs was made in knowing and/or willful violation of the TCPA, and subject to treble damages pursuant to 47 U.S.C. § 227(b)(3)(C).

15. The telephone numbers called by Defendants were assigned to a cellular telephone service pursuant to 47 U.S.C. § 227(b)(1).

16. The calls from Defendants to Plaintiffs were not placed for “emergency purposes” as defined by 47 U.S.C. § 227(b)(1)(A)(i).

17. Plaintiffs are entitled to an award of \$500.00 in statutory damages for each call placed in violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B).

18. As a result of each call made in knowing and/or willful violation of the TCPA, Plaintiffs are entitled to an award of treble damages in an amount up to \$1,500.00 pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray that judgment be entered against Defendants:

- A. Statutory damages of \$500.00 for each violation determined to be negligent pursuant to 47 U.S.C. § 227(b)(3)(B);
- B. Treble damages for each violation determined to be willful and/or knowing pursuant to 47 U.S.C. § 227(b)(3)(C); and
- C. Such other and further relief as may be just and proper.

TRIAL BY JURY DEMANDED ON ALL COUNTS

Dated: October 10, 2016

Respectfully submitted,

By /s/ Jody B. Burton

Jody B. Burton, Esq.

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